

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

01/22/2002

CLERK OF THE COURT
FORM L000

HONORABLE MICHAEL D. JONES

P. M. Espinoza
Deputy

LC 2001-000743

FILED: _____

STATE OF ARIZONA

LOWELL D HAMILTON

v.

CHRISTIAN PAUL ROYALTY

ERIC G CROCKER

MESA CITY COURT
REMAND DESK CR-CCC

MINUTE ENTRY

This Court has jurisdiction of this appeal from an Order by the trial court denying Appellant's Rule 32 Petition for Post Conviction Relief pursuant to the Arizona Constitution Article VI, Section 16, and Rule 32.9(c), Arizona Rules of Criminal Procedure.

This matter has been under advisement since the time of oral argument on January 7, 2002. This Court has considered and reviewed the record of the proceedings from the Mesa City Court, the arguments and the Memoranda submitted by counsel.

Petitioner, Christian Royalty, filed his Petition for Post-Conviction Relief with the Mesa City Court on July 25, 2001. The trial court denied that Petition on September 10, 2001 in a detailed minute entry order identifying the only issue raised by Petitioner: "were concurrent sentences mandated and, thus, did this court impose an unlawful sentence?"¹

¹ Order in docket number 20010123293, at page 1.
Docket Code 512

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The facts of this case reveal that Petitioner elected to plead guilty midway through his trial to two crimes: Disorderly Conduct in violation of A.R.S. Section 13-2904(A)(1), designated as a domestic violence offense; and Criminal Damage, in violation of A.R.S. Section 13-1602(A)(1). On July 24, 2001, the court sentenced Petitioner to consecutive jail sentences of 120 days in jail for the Criminal Damage charge and 150 days in jail for the Disorderly Conduct charge. The Disorderly Conduct sentence was ordered to run first. Petitioner contended in his Petition for Post-Conviction Relief pursuant to Rule 32, Arizona Rules of Criminal Procedure, that the sentences were unlawful because the facts of both crimes arose out the same circumstances. Petitioner contended that Arizona's double punishment statute precluded the consecutive sentences that were imposed.

In its order of September 10, 2001, the trial court specifically noted that there were two separate victims to each of the charges to which Petitioner plead guilty:

The charging document in this case Charged one count as a Domestic Violence charge and one count did not allege Domestic Violence. When the pleas of guilty were taken by the Court, the status of two separate aggrieved parties was inquired into. The aggrieved party of the Criminal Damage charge was an unrelated man who was the owner of the damaged door. The victim of the Disorderly Conduct as the Defendant's girlfriend whom he had a domestic relationship as defined under A.R.S. Section 13-3601. . . . The owner of the broken door and the Defendant's girlfriend are distinct and separate individuals. Therefore, Arizona's Appellate Courts hold that the sentences can be consecutive.²

² Id.

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The trial judge relied principally upon the case of State v. Gordon³ and State v. Gunter⁴, noting that "a single act that harms multiple victims may be punished by consecutive sentences."⁵

It therefore appears to this Court that the trial court correctly concluded that the Disorderly Conduct charge and the Criminal Damage charge had different victims and consecutive sentences were possible. Finding no error in the trial court's order denying Petitioner's Petition for Post-Conviction Relief,

IT IS THEREFORE ORDERED denying the Petition for Review.

IT IS FURTHER ORDERED remanding this matter back to the Mesa City Court for all further and future proceedings.

³ 161 Ariz. 308, 778 P.2d 1204 (1989).

⁴ 132 Ariz. 64, 743 P.2d 1034 (App. 1982).

⁵ Id.